

No. 13-20-00377-CV

IN THE 13TH COURT OF APPEALS

CORPUS CHRISTI, TEXAS

FILED IN
13th COURT OF APPEALS
CORPUS CHRISTI/EDINBURG, TEXAS

11/20/2020 7:37:50 AM

**CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON SUBSCRIBING TO POLICY
No. NAJL05000016-H87, AS SUBROGEE OF MOMENTUM HOSPITALITY, INC.
& 75 AND SUNNY HOSPITALITY D/B/A FAIRFIELD INN & SUITES,
*Appellant,***

KATHY S. MILLS
Clerk

v.

**D'AMATO CONVERSANO, INC. D/B/A DCI ENGINEERS,
*Appellee.***

Appeal from the 343rd District Court of Aransas County, Texas
Trial Court Cause No. 19-0236

**APPELLEE DCI ENGINEERS' MOTION FOR LEAVE
TO FILE SUR-REPLY BRIEF**

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ENGINEERS

TO THE HONORABLE COURT OF APPEALS;

Appellees DCI Engineers ask for leave to file a Sur-Reply Brief to the Reply Brief filed by Certain Underwriters on October 29, 2020.

Appellant Certain Underwriters filed a Reply Brief making inaccurate claims about DCI Engineers' argument, including that DCI Engineers wanted to "add" words to the statute that this Court is required to interpret in this Appeal. Further, Certain Underwriters incorrectly maintains that its third-party engineer currently practices structural engineering (and that DCI Engineers conceded this in its Brief—which it did not) when the third-party engineer clearly denied currently practicing structural engineering. Both of these mischaracterizations or incorrect statements of fact are relevant to the issue in this appeal.

In order to correct these errors and clarify its position, DCI Engineers filed a short four-page Sur-Reply on November 18, 2020, that focused only on these two issues. Appellee DCI Engineers believes that its short Sur-Reply to these limited issues will assist the Court.

Accordingly, Appellee DCI Engineers asks for leave to file its Sur-Reply to clarify its position as to these two points only so that justice be served.

For these reasons, Appellee DCI Engineers asks that the Court grant this Motion for Leave and direct the Clerk of Court to file Appellee's Sur-Reply Brief among the papers in this Appeal.

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Tex. R. App. P. 9.4 because it contains 520 words, excluding the parts of the brief exempted by Tex. R. App. P. 9.4(i)(2).

2. This brief complies with the typeface requirements of Tex. R. App. P. 9.4(e) because it has been prepared in a proportionally spaced typeface using Microsoft Office 365 in 13-point font.

Dated: November 20, 2020.



By: _____

Paul J. Goldenberg

CERTIFICATE OF SERVICE

In accordance with the Texas Rules of Appellate Procedure, I hereby certify that on November 20, 2020, a true and correct copy of the foregoing Appellee DCI Engineers' Motion for Leave to File Sur-Reply Brief has been served on counsel of record by e-filing, addressed as follows:

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A handwritten signature in black ink, appearing to be 'P. J. Goldenberg', written over a horizontal line.

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Associated Case Party: Certain Underwriters at Lloyd's of London Subscribing to Policy No. NAJL05000016-H87, as Subrogee of Momentum Hospitality, Inc. & 75 and Sunny Hospitality d/b/a Fairfield Inn & Suites,

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